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Protracted conflicts in the GUAM area and their implications for international peace, security and development

The situation in the occupied territories of Azerbaijan

Responsibility of States for internationally wrongful acts

Letter dated 13 October 2010 from the Permanent Representative of Azerbaijan to the United Nations addressed to the Secretary-General

I would like to draw your attention to the statement made on 25 September 2009 by Mr. Edward Nalbandian, Minister for Foreign Affairs of the Republic of Armenia, in the general debate of the sixty-fifth session of the General Assembly. This statement has become yet another solid piece of evidence of Armenia's destructive position, annexationist intentions and racist ideology.

The emotional outburst, in which the Minister for Foreign Affairs of the Republic of Armenia went through the traditional depiction of his country as an eternal victim, not only made it clear that the officials in Yerevan continue to remain under the disastrous influence of their confused history, trying to make as much as possible out of it to justify the policy of flagrant violation of the Charter of the United Nations and international law, but also illustrated that Armenia is far from even thinking of engaging in a sober and efficient search for peace in the region.

It is amazing that the Minister for Foreign Affairs of the Republic of Armenia — the country which bears primary responsibility for unleashing the war of aggression against Azerbaijan, carrying out ethnic cleansing, committing other serious international crimes during the conflict and advocating undisguised racist ideology — prefers to criticize the neighbouring countries and lecture them on the issues pertaining to such notions as peace, human rights, negotiations and the settlement of conflicts.

While trying to accuse Azerbaijan of allegedly suppressing Armenians during Soviet rule, "attempting to cleanse them from their ancestral home" and unleashing

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brutal war, the Minister for Foreign Affairs of Armenia stubbornly passes over in silence the facts irrefutably testifying to the opposite.

Thus, over the 70 years of Soviet rule, Armenia succeeded in expanding its territory, mostly at the expense of Azerbaijani lands, and using every possible means to expel the Azerbaijanis from their places of origin. Suffice it to say that, during the Soviet period, the territory of Armenia increased from 8,000-10,000 to 29,800 square kilometres. As a result, the Nakhchyvan region of Azerbaijan was cut off from the main body of the country. There is not a single Azerbaijani remaining in present-day Armenia of the more than half million Azerbaijani people who lived there when Soviet rule was established in the region. These facts are supported by numerous documents and acknowledged in Armenian official and academic sources.

Moreover, in the 1920s, the ancestral land of Azerbaijan — mountainous Garabakh (Nagorny Karabakh) — was given the status of autonomy within the Soviet Socialist Republic of Azerbaijan, and its administrative borders were defined in such a way as to ensure that a small Armenian population constituted a majority in this autonomy. At the same time, a significantly larger Azerbaijani population residing in the Soviet Socialist Republic of Armenia at that time was refused the same privilege, and attempts to so much as mention this were promptly, roughly and savagely suppressed.

The Armenian side's "forgetfulness" also frequently concerns the chronology of events pertaining to the beginning of the present-day stage of the war between Armenia and Azerbaijan. In reality, large-scale military actions on the territory of Azerbaijan were preceded by the attacks, at the end of 1987, on the Azerbaijanis in Khankandi (during the Soviet period, Stepanakert) and Armenia, resulting in first civilian casualties and a flood of Azerbaijani refugees and internally displaced persons. At the same time, a number of illegal declarations and decisions were taken by both Armenia and the Armenian community of Nagorny Karabakh, with a view to securing the unilateral secession of the autonomy from Azerbaijan.

Shortly after the assertion of claims on Nagorny Karabakh at the end of the 1980s, under instructions from and with the blessing of the Armenian authorities, about 230,000 Azerbaijanis remaining in Armenia were forcibly deported from their homes. This process was accompanied by killings, torture, enforced disappearances, the destruction of property and pillaging throughout Armenia. These acts were conducted on a widespread and systematic basis. During only three days, from 27 to 29 November 1988, 33 Azerbaijanis were killed in the course of pogroms in the Armenian towns of Gugark, Spitak and Stepanavan. In all, 216 Azerbaijanis were killed in Armenia in 1987-1989, including children, women and elderly people.

The Minister for Foreign Affairs of the Republic of Armenia must be well informed that, long before the world witnessed the horrifying terrorist attacks that took place on 11 September 2001 and from that date onward in different countries, the Armenian secret service and various Armenian terrorist organizations have been actively engaged in perpetrating terrorist acts on the territory of Azerbaijan, targeting civilian objects, including industrial units and means of air, sea and land transport. It is a fact that, as a result of such acts perpetrated since the late 1980s, over 2,000 citizens of Azerbaijan have been killed, the majority of them women, the elderly and children (for more information, see United Nations documents A/C.6/50/4 and A/C.6/51/5). Against this background and taking into consideration that international Armenian terrorism has bloody historic antecedents connected

with the perpetration of numerous terrorist acts in various countries and killings of tens of foreign citizens and diplomats, the hopeless attempts of the Minister for Foreign Affairs of Armenia to link Azerbaijan with mercenary and terrorist activity seem curious, to say the least.

At the end of 1991 and the beginning of 1992, the conflict entered into a military phase and Armenia initiated combat operations on the territory of Azerbaijan. That period was marked by an increase in the magnitude, intensity and consistency of the attacks. In February 1992, the town of Khojaly in Azerbaijan was notoriously overrun and its population was subjected to an unprecedented massacre. In its judgment of 22 April 2010, the European Court of Human Rights determined that the acts of particular gravity committed by the Armenian military forces against the Azerbaijani civilian population of Khojaly might amount to war crimes and crimes against humanity.

In sum, the ongoing armed conflict in and around the Nagorno-Karabakh region of the Republic of Azerbaijan has resulted in the occupation of almost one fifth of the territory of Azerbaijan and has made approximately one out of every nine persons in the country an internally displaced person or refugee. The war led to the deaths and wounding of thousands of Azerbaijanis, the majority of them women, the elderly and children. The aggression against Azerbaijan has severely damaged the socio-economic sphere of the country. In addition, no single Azerbaijani historic and cultural monument was left undamaged, and no sacred site escaped desecration both in the occupied territories and in Armenia.

The documentary evidence — and there is a mountain of it — proves that Armenia unleashed the war; attacked Azerbaijan and occupied its territories, including the Nagorno-Karabakh region and seven adjacent districts; carried out ethnic cleansing on a massive scale; and established the ethnically constructed subordinate separatist entity on the captured Azerbaijani territory. The high-ranking officials in Yerevan confirmed more than once that the regular armed forces of the Republic of Armenia invaded and occupied the territory of the Republic of Azerbaijan. Thus, one of the most recent examples concerns the words of President Serj Sargsyan of the Republic of Armenia, who stated during his visit to the North Atlantic Treaty Organization (NATO) Headquarters in May 2010 that "[o]ur army was born and baptized in the battlefield and the core of the Armenian officers, top officers, led by the Minister and the Army Chief of Staff, have a wealth of experience of warfare and it's a positive experience, a successful experience" (see press point with the NATO Secretary General and the President of Armenia at http://www.nato.int/cps/en/natolive/opinions_63920.htm). Indeed, the cynicism of the Armenian officials has no limits.

There are also irrefutable facts testifying the active use, by Armenia, of mercenaries to attack Azerbaijan (for more information, see the note by the Secretary-General, entitled "Use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination" (A/49/362, paras. 69-72)).

Accordingly, what the Armenian side considers "the exercise of the right to self-determination" by the Armenian minority group in Azerbaijan has been unequivocally qualified by the Security Council and the General Assembly, as well as by other authoritative international organizations, as the illegal use of force against the sovereignty and territorial integrity of the Republic of Azerbaijan.

The illegality of the separatist entity and its structures, established by the Republic of Armenia on the occupied territory of the Republic of Azerbaijan, has been repeatedly stated at the international level in the most unambiguous manner. No State in the international community has recognized the separatist entity as independent, not even Armenia, though it exercises effective control over the occupied territories of Azerbaijan and provides indispensable economic, political and military sustenance without which that illegal entity could not exist.

Contrary to the approach of the Armenian side based on attempts to legalize the results of the use of force and ethnic cleansing, the principle of self-determination represents a legitimate process carried out in accordance with international and domestic law within precisely identified limits. This important principle exists in reality as a rule of international law and, as such, applies to the peoples of the colonially defined territorial units and peoples subjected to alien subjugation, domination and exploitation, including peoples under foreign military occupation. There can be no doubt that persons belonging to the Armenian minority group and residing in the Nagorno-Karabakh region of Azerbaijan have nothing to do with either of these categories of peoples.

The principle of self-determination also provides for the participation of peoples in the governance of their States. In this context, the inhabitants of Nagorny Karabakh are entitled to the full benefit of international human rights provisions, including the right to self-determination within the boundaries of the Republic of Azerbaijan and as part of its population, which is the primary subject of the right to self-determination under international law.

The critical factor in addressing the issue of self-determination with regard to the conflict between Armenia and Azerbaijan is that all actions aimed at tearing away a part of the territory of Azerbaijan were unlawful and constituted a violation of the fundamental norm of respect for the territorial integrity of States, as well as a violation of other peremptory norms of general international law. In its advisory opinion of 22 July 2010, the International Court of Justice reaffirmed that the illegality attached to unilateral secessions stems from the fact that "they were, or would have been, connected with the unlawful use of force or other egregious violations of norms of general international law, in particular those of a peremptory character (*jus cogens*)".

Consequently, the claims of Armenia, which resorted to the unlawful use of force to occupy the territory of Azerbaijan and committed the most serious international crimes, such as war crimes, crimes against humanity and even genocide, are contrary to and unsustainable under international law. Therefore, the destructive political agenda of Armenia aimed at dismemberment of multi-ethnic societies and legalization of a product of aggression and outrageous manifestation of ethnic differentiation is fated never to be realized.

It seems that only the Minister for Foreign Affairs of the Republic of Armenia and his subordinates are unaware that, since 1945, no separatist entity created by the unlawful use of force and ethnic cleansing has been admitted to the United Nations and recognized by the international community.

Besides, the Government of the Republic of Armenia, which has purged both the territory of its own country and the occupied areas of Azerbaijan of all non-Armenians and thus succeeded in creating mono-ethnic cultures there, should

be the last one advocating unilateral secessions of ethnic minority groups from sovereign States.

The Minister for Foreign Affairs of the Republic of Armenia pretends to be preoccupied with Azerbaijan's oil revenues and its military budget increase. At the same time, he omits to say that the annual defence spending of Azerbaijan remains in line with overall budget increases; that Azerbaijan continues to spend a much smaller percentage of its gross domestic product (GDP) on the army than Armenia; and that the size of the armed forces of Azerbaijan is proportional to its population, territory and length of borders and remains less than Armenia's. It is worthwhile mentioning that President Serj Sargsyan of the Republic of Armenia stated, on 25 May 2010, during his visit to NATO Headquarters, that "[t]he Armenian army has types of ammunition that countries ten times the size of Armenia would dream of having" (see press point with the NATO Secretary General and the President of Armenia, http://www.nato.int/cps/en/natolive/opinions_63920.htm). These words are self-explanatory.

The Armenian side also does not clarify that the arms control mechanism is not effective in the occupied territories of Azerbaijan and that Armenia deploys, beyond international control, a great number of armaments and ammunitions in these territories.

The statement by the Minister for Foreign Affairs of Armenia has not become an exception from usual speculations and misinterpretations by Armenian officials as to the true value of the conflict settlement process.

It is unprecedented and absurd that, against the background of the continuing occupation by Armenia of the territories of Azerbaijan, the former has the cheek to blame the victim of aggression for allegedly rejecting the proposal to sign an agreement on the non-use of force. It should be made clear in this regard that there are two lawful exceptions to the United Nations Charter's broad ban on the use of inter-State force, and both are prescribed in the Charter itself. One of these exceptions relates to the exercise of the right of self-defence (Article 51). It is obvious that the principle of the non-use of force, which has been flagrantly violated by Armenia, must be reaffirmed in inter-State relations between Armenia and Azerbaijan in the framework of the settlement of the conflict and applied following the complete withdrawal of Armenian armed forces from the Nagorno-Karabakh region and other occupied territories of Azerbaijan. Accordingly, any speculations on this issue by the Armenian side are none other than a primitive propagandistic trick.

In reality, as a country suffering from the occupation of its territories and the forcible displacement of hundreds of thousands of its citizens, Azerbaijan is the most interested party in the earliest negotiated settlement of the conflict and removal of its consequences. Azerbaijan has clearly and unequivocally demonstrated its aspiration towards a resolution of the conflict based on international law and strives to make full use of all political and diplomatic resources available to it. My Government has repeatedly stated its readiness to guarantee the highest level of self-rule for Nagorny Karabakh within the Republic of Azerbaijan, although it is not an easy decision, as may seem at first sight, taking into consideration the externally imposed creation of autonomy in Nagorny Karabakh in the Soviet period, the expulsion of Azerbaijanis from Armenia and the heavy burden of the present conflict in view of human losses and sufferings.

On the contrary, by asserting that "the people of Nagorno-Karabakh exercised their right to self-determination" the Minister for Foreign Affairs of Armenia confirmed once again that the Armenian side considers the conflict settlement process only as a means of achieving the annexation of Azerbaijani territories that it has captured through military force and in which it has carried out ethnic cleansing.

The statement of the Minister for Foreign Affairs of the Republic of Armenia contains reference to the principles and elements proposed by the Co-Chairs of the Minsk Group of the Organization for Security and Cooperation in Europe (OSCE), but at the same time, he omits to add that these principles and elements purport to "reflect a reasonable compromise based on the Helsinki Final Act principles of non-use of force, territorial integrity and the equal rights and self-determination of peoples" (see the joint statement on the Nagorno-Karabakh conflict by the Presidents of France, the Russian Federation and the United States of America at the L'Aquila Group of Eight Summit, 10 July 2009).

In this regard, the natural question arises as to what compromise the Armenian side has in mind in saying that "the people of Nagorno-Karabakh [have already] exercised their right to self-determination". Clarifications of this question are essential also because the withdrawal of Armenian military forces only from the occupied territories of Azerbaijan surrounding the Nagorno-Karabakh region cannot be introduced as a compromise, insofar as it is the obligation of Armenia under international law to put an end to its illegal occupation of these territories.

Furthermore, while referring to the principles and elements proposed by the Co-Chairs of the OSCE Minsk Group, the Minister for Foreign Affairs of the Republic of Armenia passes over in silence that Armenia has not yet clarified whether it accepts them in their entirety.

It is obvious that, by insisting on unrealistic claims, attempting to mislead the international community, giving preference to bellicose rhetoric and resorting to provocative actions, Armenia attempts to discredit the ongoing political process, at the core of which is the settlement formula based on putting an end to the illegal Armenian occupation, the restoration of the sovereignty and territorial integrity of Azerbaijan and ensuring the peaceful coexistence of Armenian and Azerbaijani communities in the Nagorno-Karabakh region within the Republic of Azerbaijan.

We consider this stance of Armenia an open challenge to the conflict settlement process and a serious threat to international and regional peace and security. The earlier the officials of this country realize the lack of any perspective of their unconstructive and dangerous political agenda, the sooner our peoples will be able to benefit from peace, stability and cooperation.

I should be grateful if you would have the present letter circulated as a document of the General Assembly, under agenda items 34, 39 and 75, and of the Security Council.

(*Signed*) Agshin **Mehdiyev**
Ambassador
Permanent Representative